

JOURNAL
OF THE
House of Representatives
OF THE
REGULAR SESSION
OF THE
THIRTY-FIFTH LEGISLATURE

Convened January 9, 1917, and Adjourned March 21, 1917




AUSTIN, TEXAS
VON BOECKMANN-JONES CO., PRINTERS
1917

RELATING TO CHARGES AGAINST
THE GOVERNOR.

Mr. Davis of Van Zandt offered the following privileged resolution:

Honorable F. O. Fuller, Speaker, and Members of the House of Representatives:

I, H. P. Davis, Representative of the Twenty-ninth Representative District of the State of Texas, am informed and believe and under the solemnity of my oath of office, do hereby represent and charge:

1. That James E. Ferguson, Governor of the State of Texas, has, at various and sundry times during the year 1915 and 1916 and during his tenure of office as Governor of the State of Texas misapplied and misappropriated the public funds of the State of Texas in violation of the Constitution of the said State and in conflict with the plain decisions of the courts of the State.

2. That he has misapplied and misused a large part of a certain appropriation made by the Thirty-fourth Legislature, amounting to \$10,000, and specifically described on page 130 of the General and Special Laws of the State of Texas, First Called Session, as follows:

For Governor's Mansion, including repairs, improvements to Mansion and Grounds and necessary labor to care for same,

1916	\$2000
1917	2000

Labor and employes at Mansion for year ending August 31, 1916.. 1000

Fuel, lights, water and incidentals, for year ending August 31, 1916 2000
For year ending August 31, 1917 2000

3. That he has not only misapplied and misused a large part of said appropriations, but in addition thereto, in utter disregard of the Constitution, the decisions of the courts and his oath of office, he has approved for payment by the State accounts for merchandise and many articles for which he owes and is personally liable, and, on said approved accounts, deficiency certificates have heretofore been issued.

4. That in violation of the Constitution and laws of the State of Texas he has misapplied and misused a large part of an appropriation made by the Thirty-fourth Legislature of said State described on page 219 of the General Laws, First Called Session, and described as follows: "Payment of rewards and other expenses necessary for the enforcement of the laws, lithographing, telegraphing and for other purposes, \$7500."

5. That in violation of the laws and the Constitution of the State of Texas he has approved accounts for articles purchased for his personal use and for the use of his family and household as charges against the State of Texas, some of which accounts have been paid out of appropriations already made by the Thirty-fourth Legislature, and some of which have been made the basis for deficiency certificates issued by the Comptroller of said State.

6. That in violation of the Banking Laws of this State, he, while an officer of a State bank, to wit, the Temple State

Bank, became indebted to said bank in a sum in excess of the amount allowed by statutes, and in so becoming indebted to said bank he violated both the civil and criminal statutes of the State of Texas. That his connections with said bank and his indebtedness thereto were unknown to the people of the State when they elected him to the great office of Governor the first and second times—that the people were misled and deceived by him, and his said transactions with said bank were concealed from them.

7. That he is now indebted to said bank, unless the amount has been reduced or paid within the past twenty days, about \$170,000. That prior to, or about the 1st of December, 1916, he was indebted to said bank in the sum of approximately \$120,000, a large part of which amount had been incurred for a long period of time prior to that date, and said amount, if secured to any extent, was inadequately secured. That the president of said bank, and some of its officers had been endeavoring to collect said amount and had been urging the payment thereof by the said James E. Ferguson, and had declined to allow the said Ferguson to increase his indebtedness to said bank. That the cashier of said bank, one Hughes, well knowing that the said Ferguson owed said bank said amount, and that the same was far in excess of the amount allowed by the Banking Laws of the State of Texas to be loaned to one person, and that said amount had been loaned in violation of the said statutes, on or about the 5th day of December, 1916, loaned the said Ferguson an additional amount and allowed him, the said Ferguson, to withdraw same from the said bank. The said sum so loaned by said Hughes to said Ferguson was between \$30,000 and \$50,000, and said additional loan increased the said indebtedness of the said Ferguson to about \$170,000. That at the time, in December, 1916, the said loan was made to the said Ferguson and the facts and circumstances under which the same was made constituted a wilful misapplication of the funds of said Temple State Bank, which offense, under the statutes of this State, constitutes a felony punishable upon conviction by imprisonment in the State penitentiary for a term of not less than five nor more than ten years. That under said statutes any one who aids and abets an officer of a State bank in the wilful misapplication of the funds of a bank is also guilty of a criminal offense. That the said James E. Ferguson aided and

abetted the said officer of said bank in the wilful misapplication of the funds of said bank and in violation of the plain provisions of the Banking Laws of this State. That in addition, under the conspiracy statutes of this State, the said James E. Ferguson and the said officers of said bank would be guilty, and it is here now charged that they are guilty of a criminal violation of the Banking Laws of this State. That all of the loans made by the Governor, including the loan in December, 1916, were made in violation of the spirit and the letter of the Banking Laws of this State. That the transactions of said Ferguson with said bank, and the loans made to him by it, and the violations of the law in connection with said loans were concealed from the people of the State of Texas by the said Ferguson and were unknown to the people at the time he was elected Governor in 1914 and 1916 and were not disclosed and known by the people until about February 20, 1917, when the president of said bank, H. C. Poe, made a partial statement of said Ferguson's transactions with said bank as shown by a true copy of said statement marked "Exhibit A" and made a part hereof.

8. That said James E. Ferguson, Governor of the State of Texas, executed certain mortgages to the said Temple State Bank to secure all or a part of his indebtedness thereto and requested the officers of said bank to withhold same from record in order that he might be relieved from criticism of his political opponents, and said mortgages were so withheld. That while said mortgages were so being withheld from record by the officers of said bank, the said James E. Ferguson executed other mortgages to other parties on the same property, or a large part thereof, and said other mortgages were placed of record before the mortgages to said bank were recorded, thereby making the mortgages and security of said bank subject to the liens of said other mortgages, all of which is fully shown by the said statement of the said H. C. Poe, President of said bank, heretofore made an exhibit to and a part hereof.

9. That the said Temple State Bank accepted what is known as the "bonding plan" to secure its depositors, and did not become a beneficiary of the bank guaranty fund. That many of the officers and stockholders of said bank were and now are on said bond. That within the past ninety days that said bank has made an application under

the law to change from the bonding plan to the guaranty fund plan in order that said bondsmen may be relieved from liability on said bond in case of a failure of said bank by reason of the indebtedness of the said Ferguson to it, and have been and are now endeavoring to have said liability transferred to said fund, which is strictly a sacred trust fund belonging to the State banks of the State of Texas. That the said James E. Ferguson has been and is now cognizant of the efforts of said bondsmen to secure their release from said bond, and approves same.

10. That the Commissioner of Insurance and Banking, Hon. Charles O. Austin, has been since his appointment to the office by the said James E. Ferguson, Governor of the State of Texas, cognizant of all the facts with reference to the indebtedness of the said Ferguson to said bank, and has had full reports relative to said indebtedness and said transactions made to him by the State bank examiners and by H. C. Poe, and, although requested to do so, he has failed and refused and still fails and refuses to require the said Ferguson to pay said indebtedness to said bank. That the said Charles O. Austin knew that the transactions and loans of said James E. Ferguson with said bank, and the acts of the officers of the said bank in making said loans to him, were in violation of the civil and criminal provisions of the State banking laws of the State of Texas, and notwithstanding such knowledge, with the acquiescence and approval of the said James E. Ferguson, Governor of the State of Texas, he refused to enforce said banking laws as to said bank. That by his course in said matter the said Charles O. Austin became a party to the violations of the banking laws of the State of Texas.

Now, therefore, be it resolved, that the public good, the cause of truth and justice to all parties and all officers concerned require that a full, fair and impartial investigation be made by this Legislature, that all the facts which would show or tend to show the truth about the acts herein enumerated, and which will enable this Legislature to take such action as the facts developed may require, and to pass such laws as may be necessary to prevent a repetition of such transactions, and for this purpose a committee of seven shall be selected from this House. Said com-

mittee shall be organized by electing one of its members chairman and one secretary, and shall have authority to employ such stenographers and clerks as may be deemed necessary, and to call upon the Sergeant-at-Arms of the House for service of process and enforcement of its orders. Said committee shall be and the same is hereby vested with the power to issue process, summons witnesses, to take and have taken depositions in such manner and with such notice as it may be ordered, to compel the production before it of any papers, loans, books or documents for the purpose of securing testimony. It is hereby vested with all the powers now vested in the district courts of this State; that each member of said committee is hereby vested with the power to administer oaths; that the method of implied procedure in gathering evidence as well as in the prosecution of the work for which it is constituted shall be within the discretion of the committee, and said committee shall have power to take and keep a record of any and all transactions of the said parties hereinbefore mentioned which come under the observation of said committee during its investigation, and which may either directly or collaterally concern the official conduct of the said officers hereinbefore mentioned, or which may show or tend to show any violations of the laws of this State by said parties. Said witnesses shall be paid in the same manner and amount as is provided for witnesses summoned before the House and any of its committees. The sessions of said committee shall be open, and it is hereby authorized to sit and hold its sessions at any place within the State of Texas for the purpose of securing and taking such testimony of the witnesses as can be procured to be brought before it at the Capitol of the State, or which may be inaccessible to the committee without such sitting at other points than the Capitol. The committee is hereby given authority to employ counsel to represent it and the public, and any officer whose transactions may be deemed the subject of inquiry by the committee shall have the right to be represented by counsel, and shall be entitled to participate in the conduct of the investigation with the same powers, duties and privileges as belong to any attorney-at-law representing parties in any of the courts of

this State, and each shall have the right and the duty of said committee, or any individual member thereof, to interrogate any and all witnesses which may be brought before it in such a manner and to such an extent as may be necessary to develop the full truth and all the facts related to the matters herein enumerated, and such other matters as said committee may investigate. Said committee, however, shall not be restricted to any rule of evidence in procuring evidence, but shall obtain the facts regardless of the usual rules of evidence.

The report of said committee shall contain a correct and accurate stenographic transcript of all proceedings had in and before said committee, giving questions, answers, objections to evidence, ruling thereon, names of parties and disposition thereof, or used in evidence before said committee, including the transcript and the entries in all books or accounts showing or offering any light on any of the transactions hereinbefore mentioned, together with such recommendations as the committee, or any member thereof, shall see fit and proper to make to the House, and it shall be recorded at length in the Journal of the House.

The necessary traveling and personal expenses, retainers and fees paid counsel, all witness fees, mileage, and all other expenses of said committee to be paid out of the contingent fund of the House upon accounts duly approved by the chairman of said committee.

The said committee in addition to making a report of the facts ascertained by it, shall and is hereby instructed, in case it finds the allegations and charges herein made true, in whole or in part, to prepare and submit with its report such specific charges as may be the basis, or may be necessary in impeachment proceedings against the said James E. Ferguson, Governor of the State of Texas, before the Senate of said State.

The said committee of seven to be appointed by the Speaker of the House of Representatives.

H. P. DAVIS.

Sworn to and subscribed before me, this 3d day of March, A. D. 1917.

(Seal.) HASKELL SMITH,
Notary Public in and for Travis
county, Texas.

EXHIBIT "A."

Austin Texas, Feb. 20.—Following is the full text of the statement issued by H. C. Poe, former president of the Temple State Bank, read yesterday in the House as part of the remarks of Representative O'Banion of Harrison county, during the debate of the probe resolution:

In order that the Temple State Bank may be relieved as far as possible from the effect of a newspaper controversy between Governor Ferguson and myself and to do what I believe to be absolutely fair to the stockholders and interested parties in connection with the Temple State Bank, I have filed my resignation as president of the institution. I am answering Governor Ferguson's charges as a private citizen of Texas and not as president of any banking institution whatsoever.

First Knowledge of Paper.

When I came to Temple in January, 1915, Governor Ferguson showed me through the paper that he and his Bell-Bosque ranch owed the bank more than \$60,000. With his explanation I considered the paper absolutely good. When the different notes began falling due at the end of the year, different parties when I notified them concerning their obligation to the bank and asked them since they were maturing to care for same, advised me that the notes I was demanding them to pay had been signed as an accommodation to Governor Ferguson, that in reality they did not owe any part of these obligations themselves.

I took the matter up with the Governor personally and he advised me he had forgotten to tell me about these circumstances. This situation drifted along until April, 1916. On April 4, I wrote Governor Ferguson with reference to the condition of his account. Part of the letter reads as follows: "Some of our board, and as good men as we have in Temple, have said in our meeting that unless you corrected your way of keeping your account with this bank they would resign as they could not afford to continue on the Board with a practice of this kind being permitted. It is a little embarrassing to write you, but I certainly hope that you will not continue this and that we will have good remittances at an early date to put the account in proper shape."

Went to Austin to See Ferguson.
Governor Ferguson phoned me to come

to Austin. I went down and discussed the proposition personally with him. He stated positively that in the course of a short time he would clean his account up in such condition that there could be no complaint from anyone. On May 18, while we were on the Governor's ranch near Sparks dipping cattle, he asked me to take a walk with him through the farm, and while on this stroll he promised me most positively that he would pay in \$50,000 to \$65,000 on his obligations within the next few days, provided the Temple State Bank would give the Houston National Exchange Bank of Houston an average balance of \$16,000 as an inducement to them to lend him some money. I told him that we would be glad to maintain such balances there in order that he could arrange for funds with which to reduce his indebtedness.

Right at the time these conferences were taking place, regardless of the condition of his account, the Governor mailed me an accommodation note in the sum of \$20,000, signed by a local citizen of Temple, and in addition to this note \$20,000 in mining bonds bearing 6 per cent interest, asking that I credit his individual account with the proceeds of same. The note and the bonds I returned to him, explaining that it was utterly impossible for us to consider accepting these for his account in view of the heavy line that we were then having to carry for him.

Time passed along and no credit was ever placed to the account of the Temple State Bank at Houston as promised by the Governor. The campaign came on, and while I had asked him not to check on us any further, small items continued coming in. In June I wrote Governor Ferguson stating that I would not pay checks any further and that checks dated later than the date of my letter would have to be declined.

The campaign closed and the Governor won. On July 27 I wrote Governor Ferguson. A part of the letter referring to his account reads as follows: "Now since we have cared for these matters and permitted your past due paper and overdraft to run as it has and the election is over, I certainly hope you will take care of this, as you must do, without causing us further embarrassment. I hate to write you this letter, but we must have a reduction in this without further delay."

Had Meeting at Democratic Convention.

On Tuesday evening of the Democratic Convention in Houston Governor Fergu-

son called me aside from the gentlemen we were with on the second floor of the Rice Hotel and said that I need not worry further about the condition of his account; that he would have credited to the account of the Temple State Bank for his individual account at Temple \$60,000 to \$75,000 before he left Houston for home. Several days lapsed and we still received no advice of credit. This situation passed along possibly three weeks or more. The Governor was in Temple and stated that he wanted to go to Colorado for a few days rest; that he had been disappointed at Houston; that if I would let his account run as it was until his return from Colorado that he would come up and clean the account up so that there would not be any complaint from any source whatsoever. For some reason he did not make the Colorado trip, and after waiting again, as I had been for some time, the Governor was spending the night with me out at my home in Temple and he brought the proposition of the condition of his account with the bank up himself.

He said that he was bound to sell a lot of his properties and bank stock on account of his financial condition, and asked me if I would consider buying his bank stock, stating that he considered his stock in the Temple State Bank worth \$37,000. I agreed to think the matter over and discuss it with him further. In submitting me this proposition he especially agreed that he would reduce his indebtedness to not exceeding \$50,000, which at that time amounted to about \$130,000.

We discussed the bank stock deal and the reduction in his account with the bank in the way of making the bank stock deal three or four different times, as we would meet each other on different occasions.

Said Ferguson Raised His Price.

During the Cotton Palace in Waco and the Saturday that the Agricultural and Mechanical College played the University of Texas game I went up to see the Governor. We went to the game together and agreed on the bank stock deal and that I would come to Austin in a few days to close up the deal as per our agreement.

After discussing the proposition a few minutes, to my surprise Governor Ferguson told me that he had decided his bank stock should be worth at least \$48,000, and that he would expect me to take in connection with the bank stock a vacant lot west of the Temple

State Bank at \$10,000. I told him that that would stop the deal entirely; that I could not consider the proposition further when he had raised the price of his stock and wanted me to take the vacant lot. This date, I am most sure, was the last Tuesday in November.

I stated to the Governor then that I was arranging to make a trip to New York and wished we could get his account in shape for the close of the year, and before I left for this trip, and if we were not going to trade on the bank stock what I might expect in the way of payment on his indebtedness to the bank. He told me to go ahead and make the trip; that in the course of ten days or two weeks he would make a heavy payment on his obligations, and if I should be further interested in buying the bank stock we could decide this when I returned home. I left for New York on December 2; was away ten days or two weeks. On my return I found that instead of Governor Ferguson reducing his indebtedness to the bank, that he had been in Temple in my absence and made two notes of \$25,000 each to the bank. A part of the proceeds of these notes covered the overdraft he had in the bank, the balance he had checked out and his balance was practically nothing.

I went to Austin immediately, called on the Governor and stated to him that to my surprise instead of reducing his account in the bank in my absence he had increased it in making these notes and that something had to be done; that if we could make the stock deal and clean up his account as he had agreed to in connection with my buying his stock all right, if not, I was going to make an effort to collect at least a part of the money. This conversation was very unpleasant between us and we had a heated argument about the way he had been imposing on the bank, and he told me if I was not willing for his account to run in the manner in which he desired that I would have to get out.

Up to this time everything had been very pleasant and agreeable. While he would show by his looks that he did not like for me to get after him about his overdraft and account, at the same time he would not become angry, until the occasion of this conference. I returned home and called the directors together. We had discussed the situation concerning his account on different occasions. I related to them the entire circumstances with reference to the conversation I had with the Governor and our argument in

connection with same. This directors' meeting was held on December 18.

Paragraphs of the Minutes.

The sixth and seventh paragraphs of the minutes of this meeting read as follows:

"General conditions of the bank were discussed thoroughly and especially the excessive lines of James E. Ferguson. The president of the bank was directed to reduce the loan to James E. Ferguson and the Bell-Bosque Ranch, which is owned by Governor Ferguson, to not exceeding \$25,000 each, and require security on whatever amount the bank continued to carry in the way of loan for either James E. Ferguson or the Bell-Bosque Ranch."

"The board unanimously indorsed the action of the president in declining to permit James E. Ferguson or the Bell-Bosque to increase their lines, and especially directed and insisted that the loans of both James E. Ferguson and the Bell-Bosque ranch be reduced if even to the extent of filing suit if that became necessary."

I had been refusing payments of Governor Ferguson's checks and notified him that on account of his indebtedness which amounted to more than \$170,000, that we positively would not pay his checks any longer. On December 26 the board again convened to discuss the proposition of Governor Ferguson's account and make up our annual report to the Banking Commissioner of Texas.

Second paragraph of minutes of this meeting of December 26 reads as follows:

"Motion made by E. W. Moore to approve the minutes of the meeting of December 18 was seconded by T. H. Heard and the directors present unanimously voted to approve the minutes as read."

Met With Bank Directors.

I had notified Governor Ferguson by letter that the board had directed me, as president of the bank, to reduce his obligations materially and that something would necessarily have to be done immediately. The meeting of the directors herein referred to on December 26 was held in the forenoon of that date. Governor Ferguson came on the evening train and asked that the directors meet with him in conference in the bank in the evening. In the conference on the evening of December 26 Governor Ferguson made an agreement with the directors, after going over in detail his financial condition, that he would pay

into the bank at least \$100,000 in the course of ten days or two weeks. We agreed to give him until February 1, which was more time than he requested. The third or fourth day after he had met with the directors he called me by phone and said that he had a plan that would be more satisfactory to him and that he felt would be a greater advantage to the board in the way of an arrangement with his account than we had agreed on in our meeting on the evening of December 26.

His proposition was as follows: "That he make an individual note of \$37,500, that the Bell-Bosque ranch to sign a note for \$37,500. That he would get two personal friends to sign accommodation notes of \$37,500 each, and use the proceeds of these four notes to be applied on his indebtedness to the bank; that the balance due he would 'pay into us in cash.'" I discussed this with the board and was advised that they would prefer the original agreement that we had and that we did not think it best to consider his proposition.

History of the Mortgages.

I so notified the Governor. In looking up the records with reference to the securities the bank held to a part of Governor Ferguson's indebtedness, I found on one tract in Bell county that he had mortgaged to the bank to secure a loan of \$14,000 and represented the mortgage to be a first lien that he had executed to a life insurance company in Houston, mortgage of more than \$30,000, that their mortgage had been put on record, making the mortgage to the Temple State Bank second.

I found that in Bosque county, where he had given us a second mortgage, which was subject to a loan of \$25,000 to John Hancock Life Insurance Company, on real estate to secure \$30,000 of the indebtedness and at the time he gave this mortgage he requested that it be not put on record, that his personal and political enemies would have the advantage of knowing to that extent the condition of his private affairs. Our mortgage not having been recorded, at his request, he had executed mortgage to an Austin bank in the sum of \$37,400 on the same real estate. The Austin bank having recorded their mortgage made the lien of the Temple State Bank a third mortgage. I wrote Governor Ferguson with reference to these land mortgages and asked him to either take up what he owed on these notes or secure releases from the people to whom he had executed mortgages that had been put of record, making our liens

second and third instead of first and second.

The Governor not having made any remittance, not having indicated that he would make remittance, I passed \$80,000 of his and the Bell-Bosque ranch past-due paper to our attorney for attention.

We held a directors' meeting on the night of January 17. In this meeting a committee of four directors composed of E. W. Moore, T. H. Heard, A. J. Jarrell and C. A. Hughes were directed to go with Attorney W. O. Cox to call on Governor Ferguson the next day and see if we could not get some kind of an amicable adjustment with him without having to file suit, as most of the directors felt that to file suit would develop and divulge the condition of the Governor's accounts and was not best in the interest of the bank.

Said Meeting Was Pleasant.

You will notice from this that the Governor's remarks concerning his meeting with the directors on the night of December 26 as having been so satisfactory, that the thing that made the meeting on that night of December 26 so pleasant was his promise to pay the bank at least \$100,000 in the next ten days or two weeks. That he had failed to do this, that he had said he could not on the plans agreed on and at this date, on January 18, a committee of the directors, as above stated, and the bank's attorney, were going as a committee to see if some arrangement could not be made with the Governor in connection with his account. At this meeting in Austin he agreed to pay off one note of \$14,000 and accrued interest, provided they would permit him to place four notes of \$37,500 each in the bank in renewal of his obligations that were then past due, and maturing in the near future.

The board was not pleased with the security the Governor had offered, but accepted it because they felt it was the best thing that could be done with the conditions that prevailed. At the conference in Austin the Governor had demanded and urged that the board of directors remove me as president of the bank. The gentlemen on their return informed me most positively that they informed the Governor that a proposition of this kind they would not consider. In connection with the agreement the directors informed me that the Governor had agreed with them that we would not make any changes in the bank further than electing two directors that were suitable to Mr. Ferguson.

On the date of the annual election, the first Tuesday in February, I was informed in the morning that the Governor had been in town the night before and then was out in town endeavoring to get proxies sufficient to control the meeting and elect directors that would throw me out as president of the bank.

I told them I would like to be relieved of the worry and trouble and that there was no chance in the world for us to ever get along peaceably regardless of the condition of his account, and that if they would agree for me to stay in the bank until I could get my friends off the bonds which they had signed in the interest of the bank that I would be glad to get out. These directors called on the Governor, and in a few minutes returned, stating that everything was satisfactory and there would be no disturbances in the stockholders' meeting in the afternoon.

All Officers Were Re-elected.

The stockholders convened, elected directors, re-elected all the officers of the bank without any changes and there was not any argument or any disturbances in any manner.

We renewed Governor Ferguson's paper when he paid in the \$14,000 note and accrued interest on the terms as agreed on with the committee of directors who called on the gentleman in Austin.

By inquiry most anyone can find out that the condition of the Governor's affairs with this bank had been freely discussed on the streets of Temple. The amount he owed the bank and the disturbances that were going on—it was the common talk of most every street corner for several days.

With reference to the Governor's remarks concerning his paper being entirely satisfactory to the directors of the Temple State Bank, when the State Treasurer last Monday was letting the State funds in the way of selecting depository for the various congressional districts of Texas, and the county commissioners of Bell county had advertised for bids for depository for Bell county the coming two years, the officers of the Temple State Bank were advised to not make bid on the funds that were being let by either the State Treasurer or the commissioners court of Bell county; that they would not sign a bond if the bank should be the highest bidder with the condition which Governor Ferguson's paper stood with this bank.

There isn't a director in the Temple State Bank that will make oath that I

ever stated in directors' meeting that Governor Ferguson had admitted to me that he was broke. Governor Ferguson's statement that he held proxies and represented more than 10,000 shares of the 12,500 shares of stock in the last stockholders' meeting is in error. The fact of the business is, I wrote Governor Ferguson a letter when I had been told that he was trying to get proxies from different stockholders and offered to send him proxy for the stock I held in the bank and told the gentleman I would take pleasure in doing so.

Had No Part in Investigation.

As stated in the various daily papers published in Texas Thursday, I never in any manner to any individual or to any member of the Legislature suggested any investigation of the Governor's affairs or furnished any information to any individual with reference to same. I discussed the condition of his account with the board of directors, as we had a number of meetings with reference to same. I talked to a few close personal friends and asked their advice with reference to the situation, but I know the gentlemen whose advice I sought have not in any manner discussed my conversation with them to any member of the Legislature or to any other person. That they have treated what I said to them in asking their advice strictly confidential.

Governor Ferguson's statement that he had upbraided me and criticised me for my personal conduct and work in connection with the bank was in error. He never in all our relations ever intimated in any way a proposition of this kind.

Concerning the charges that the breweries paid funds into the Temple State Bank to finance his first campaign: These are matters in which I am not interested, as those transactions are charged to have taken place before I had any connection with the bank.

I regret very much to be forced to publish this letter, but since Governor Ferguson has made the statements concerning which he has, I feel that it is only just to me and my family that the people of Texas might have a clear-cut statement as to the facts that actually exist and the reason why Governor Ferguson has criticised me as he had before the Senate last Wednesday.

With the above statements, I leave to the good citizenship of Texas this controversy to decide for themselves.

H. C. POE.

The resolution was read second time.

Question—Shall the resolution be adopted?

Mr. Bledsoe moved that Governor Ferguson be invited to address the House at this time.

The motion prevailed.

The Speaker appointed Mr. Bledsoe and Mr. Pope to escort Governor Ferguson to the Speaker's stand.

Governor Ferguson, being presented by the Speaker, then addressed the House.

Question recurred—Shall the resolution be adopted?

Mr. Bagby moved to postpone further consideration of the resolution until 2 o'clock p. m. next Monday.

The motion prevailed.

RELATING TO CHARGES AGAINST THE GOVERNOR.

The Speaker laid before the House, as postponed business, for consideration at this time, the resolution offered on last Saturday by Mr. Davis of Van Zandt, relating to the investigation of certain charges against Governor Ferguson.

Question—Shall the resolution be adopted?

Mr. Moore raised a point of order on further consideration of the resolution on the ground that it contains the same substance as a resolution heretofore acted on and defeated by the House during this session of the Legislature.

The Speaker stated that he would submit the point of order to the House for its decision.

Mr. Spradley moved the previous question on the point of order, and the motion was duly seconded.

Question—Shall the main question be now ordered?

Yeas and nays were demanded, and the main question was ordered by the following vote:

Yeas—102.

Bagby.	Miller of Austin.
Baker.	Miller of Dallas.
Beard of Harris.	Monday.
Beasley.	Morris.
Bedell.	Neeley.
Blackburn.	Neill.
Blackmon.	Nichols.
Blalock.	Nordhaus.
Bland.	O'Banion.
Bledsoe.	O'Brien.
Boner.	Osborne.
Brown.	Parks.
Burton of Rusk.	Peddy.
Burton of Tarrant.	Pillow.
Butler.	Pope.
Cadenhead.	Raiden.
Canales.	Richards.
Carlock.	Robertson.
Clark.	Roemer.
Cox.	Sentell.
Davis of Grimes.	Schlesinger.
De Bogory.	Schlosshan.
Denton.	Scholl.
Dudley.	Sholars.
Dunnam.	Smith of Bastrop.
Estes.	Smith of Scurry.
Fisher.	Spencer of Nolan.
Fitzpatrick.	Spencer of Wise.
Florer.	Spradley.
Greenwood.	Swope.
Haidusek.	Taylor.
Hardey.	Templeton.
Harris.	Terrell.
Hartman.	Thomas.
Hill.	Thomason
Holland.	of El Paso.
Hudspeth.	Thomason
Johnson.	of Nacogdoches.
Jones.	Thompson
Laas.	of Hunt.
Lange.	Thompson
Lanier.	of Red River.
Lee.	Tillotson.
Lindemann.	Tilson.
Lowe	Traylor.
of McMullen.	Tschoepe.
Low	Valentine.
of Washington.	Veatch.
McComb.	Walker.
McCoy.	White.
McDowra.	Williams
McFarland.	of McLennan.
Martin.	Wilson.
Mendell.	Woodul.
Metcalfe.	

Nays—26.

Beard of Milam.	Bryant.
Bertram.	Cope.
Bryan.	Crudgington.

Dodd.	Rogers.
Fly.	Russell.
Hawkins.	Sackett.
Laney.	Seawright.
McMillin.	Smith of Hopkins.
Meador.	Stewart.
Moore.	Upchurch.
Murrell.	Williford.
Peyton.	Woods.
Reeves.	Yantis.

Present—Not Voting.

Davis
of Van Zandt.

Absent.

Beason.	Tinner.
Fairchild.	Williams
Poage.	of Brazoria.

Absent—Excused.

Bell.	Sallas.
Cates.	Strayhorn.
Davis of Dallas.	Wahrmund.
Lacey.	

Question then recurring on the point of order raised by Mr. Moore, yeas and nays were demanded.

The House overruled the point of order by the following vote:

Yeas—64.

Bagby.	Low
Beard of Harris.	of Washington.
Blackburn.	McFarland.
Bland.	Martin.
Brown.	Mendell.
Burton of Tarrant.	Metcalfe.
Carlock.	Miller of Austin.
Cox.	Miller of Dallas.
Davis of Grimes.	Monday.
De Bogory.	Moore.
Denton.	Morris.
Dudley.	Nordhaus.
Dunnam.	O'Brien.
Estes.	Parks.
Fisher.	Pillow.
Fitzpatrick.	Pope.
Florer.	Richards.
Greenwood.	Roemer.
Haidusek.	Schlesinger.
Hardey.	Scholl.
Harris.	Sholars.
Hartman.	Spencer of Nolan.
Hill.	Spradley.
Holland.	Swope.
Hudspeth.	Taylor.
Jones.	Thompson
Laas.	of Red River.
Lange.	Tillotson.
Lanier.	Tschoepe.
Lindemann.	Valentine.
Lowe	Walker.
of McMullen.	White.

Williams
of McLennan. Woods.
Woodul.

Nays—66.

Baker.	O'Banion.
Beard of Milam.	Osborne.
Beasley.	Peddy.
Bedell.	Peyton.
Bertram.	Raiden.
Blackmon.	Reeves.
Blalock.	Robertson.
Bledsoe.	Rogers.
Boner.	Russell.
Bryan.	Sackett.
Bryant.	Sentell.
Burton of Rusk.	Schlosshan.
Butler.	Seawright.
Cadenhead.	Smith of Bastrop.
Canales.	Smith of Hopkins.
Clark.	Smith of Scurry.
Cope.	Spencer of Wise.
Crudgington.	Stewart.
Davis	Templeton.
of Van Zandt.	Terrell.
Dodd.	Thomas.
Fly.	Thomason
Hawkins.	of El Paso.
Johnson.	Thomason
Laney.	of Nacogdoches.
Lee.	Thompson
McComb.	of Hunt.
McCoy.	Tilson.
McDowra.	Tinner.
McMillin.	Trayler.
Meador.	Upchurch.
Murrell.	Veatch.
Neeley.	Williford.
Neill.	Wilson.
Nichols.	Yantis.

Absent.

Beason.	Williams
Fairchild.	of Brazoria.
Poage.	

Absent—Excused.

Bell.	Sallas.
Cates.	Strayhorn.
Davis of Dallas.	Wahrmund.
Lacey.	

Reasons for Votes.

I vote "yea" on the point of order made by Mr. Moore for the reason that I believe the Constitution and rules of this House sustain my vote, regardless of the correctness or falsity of the allegations contained in either the O'Banion or Davis resolutions and my judgment thereon, and because I observe that the House Journal of Saturday, March 3, plainly says that the subject matter offered by Mr. Davis was a "privileged resolution," and that Mr. O'Banion's paper was called a "resolution" and so

acknowledged by the author, both covering the same subject matter and varying but slightly in substance, which the Constitution and the House rules clearly forbid being considered twice during the same session of the Legislature.

DENTON.

I vote "nay" because the point of order is not sustained by the Constitution. But this is not to be construed an expression of my opinion upon the merits of the charges.

PEYTON.

I vote "nay" on the point of order because I believe that in justice not only to the Chief Executive of this State, but to the people of the commonwealth as well, that this resolution should be adopted and referred to the committee provided for in the resolution, to take such action as they deem wise and expedient; and for the further reason that the vote on the "point of order" is only technical, and is a parliamentary procedure to indefinitely postpone the resolution.

BEARD of Milam.

Mr. Spradley moved to postpone further consideration of the resolution indefinitely.

Yeas and nays were demanded, and the motion to postpone indefinitely was lost by the following vote:

Yeas—54.

Beard of Harris.	McFarland.
Blackburn.	Martin.
Bland.	Mendell.
Brown.	Metcalfe.
Burton of Tarrant.	Miller of Austin.
Carlock.	Monday.
Davis of Grimes.	Nordhaus.
De Bogory.	O'Brien.
Denton.	Parks.
Dudley.	Pillow.
Dunnam.	Pope.
Estes.	Roemer.
Fisher.	Schlesinger.
Fitzpatrick.	Scholl.
Greenwood.	Sholars.
Haidusek.	Smith of Bastrop.
Hardey.	Spradley.
Harris.	Swope.
Hartman.	Taylor.
Hill.	Thompson
Holland.	of Red River.
Laas.	Tillotson.
Lange.	Tschoepe.
Lanier.	Valentine.
Lindemann.	Walker.
Lowe	White.
of McMullen.	Williams
Low	of McLennan.
of Washington.	Yantis.

Nays—76.

Bagby.	Neeley.
Baker.	Neill.
Beard of Milam.	Nichols.
Beasley.	O'Banion.
Bedell.	Osborne.
Bertram.	Peddy.
Blackmon.	Peyton.
Blalock.	Raiden.
Bledsoe.	Reeves.
Boner.	Richards.
Bryan.	Robertson.
Bryant.	Rogers.
Burton of Rusk.	Russell.
Butler.	Sackett.
Cadenhead.	Sentell.
Canales.	Schlosshan.
Clark.	Seawright.
Cope.	Smith of Hopkins.
Cox.	Smith of Scurry.
Crudgington.	Spencer of Nolan.
Davis	Spencer of Wise.
of Van Zandt.	Stewart.
Dodd.	Templeton.
Florer.	Terrell.
Fly.	Thomas.
Hawkins.	Thomason
Hudspeth.	of El Paso.
Johnson.	Thomason
Jones.	of Nacogdoches.
Laney.	Thompson
Lee.	of Hunt.
McComb.	Tilson.
McCoy.	Tinner.
McDowra.	Traylor.
McMillin.	Upchurch.
Meador.	Veatch.
Miller of Dallas.	Williford.
Moore.	Wilson.
Morris.	Woods.
Murrell.	Woodul.

Absent.

Beason.	Williams
Fairchild.	of Brazoria.
Poage.	

Absent—Excused.

Bell.	Sallas.
Cates.	Strayhorn.
Davis of Dallas.	Wahrmund.
Lacey.	

Mr. Bagby offered the following amendment to the resolution:

Amend the resolution by striking out all in the tenth paragraph of said resolution beginning with the words, "Now, therefore, be it resolved," and all that follows thereafter, and insert in lieu thereof the following:

"Now, therefore, be it resolved, That the public good, the cause of truth and justice of all parties and all officers concerned require that a full, fair and

impartial investigation be made by this Legislature; that all facts which would show or tend to show the truth about the acts herein enumerated, and which will enable this Legislature to take such action as the facts developed may require and to pass such laws as may be necessary, and for this purpose a committee of twelve shall be selected from this House by the Speaker. Said committee shall be organized by selecting one of its members chairman and one secretary, and shall have authority to employ experienced shorthand reporters and clerks as may be deemed necessary, and to call upon the Sergeant-at-Arms of the House for service of process and enforcement of its orders. Said committee shall be and the same is hereby vested with the power to issue all necessary process, summon witnesses and to compel their attendance, and the production before it of any papers, evidences of loans, books or documents. Said committee is further vested with all the power now vested in the district courts of this State in the conduct of said investigation and all matters coming before it. That each member of said committee is hereby vested with the power to administer oaths. That the method of procedure in gathering evidence as well as in the prosecution of the work for which it is constituted shall be within the discretion of the committee. Said committee shall have the power to take and keep a record of all of the testimony had, taken and received by it in all matters investigated by it concerning the charges herein made.

"All witnesses summoned before said committee shall be paid in the same manner and amount as provided for witnesses summoned in any of the district courts of this State.

"The sessions of said committee shall be open, and it is hereby directed and authorized to sit and hold its sessions in the city of Austin, State of Texas.

"The committee is hereby given authority if it may see proper and so desires to employ counsel to represent the proponent of the resolution to conduct the examination of witnesses, but this shall not prevent any member of the committee nor the proponent of the charges himself from examining any witness and propounding questions to him at any time throughout said examination and hearing. Any officer against whom charges are herein made shall also have the right to be represented by counsel, who shall also have the right to interrogate witnesses and perform such other duties as are usual

and customary by attorneys in the trial of cases.

"The hearing shall be conducted the same as trial of cases in the district courts of this State, and the rules of evidence observed in the district courts of this State shall be observed and adhered to in said hearing; and the conduct of counsel shall be required to conform, as nearly as possible or practicable, to the conduct of counsel in the trial of cases in the district courts of this State. The objections made to the introduction of testimony and all other matters pertaining to the introduction of testimony before said committee shall be submitted to the chairman of the committee and by him determined, but in case any member of the committee dissents from the ruling of the Chair with reference to the admission of testimony then the matter of the admission or rejection of said testimony shall be submitted to the committee by the Chair, and a majority of those voting on said question shall determine the same.

"The report of said committee shall contain a correct and accurate stenographic transcript of all of the proceedings had before said committee, of all evidence taken, of all questions asked and answers thereto, showing all objections and the rulings thereon, and shall be, at the conclusion of said hearing, reported to the House for such disposition as the House may deem proper to be made of the same.

"All necessary expenses of the committee shall be paid out of the contingent expense fund of the House upon accounts duly approved by the chairman of said committee and in turn approved by the Speaker of the House.

"The committee shall at the conclusion of the taking of testimony make a report of its findings to the House, and the House shall thereupon take such action upon the same as it shall deem proper and just in the premises."

Mr. Bryan offered the following amendment to the amendment:

Amend the amendment by substituting seven members for committee instead of twelve.

Mr. Fisher raised a point of order on consideration of the amendment to the amendment on the ground that it provides for the same number of committeemen as the original resolution provides for.

The Speaker overruled the point of order.

Mr. Templeton offered the following substitute for the amendment to the amendment:

Amend by making the number eleven.

Question then recurring on the substitute, it was lost.

Mr. Tilson offered the following substitute for the amendment to the amendment:

Amend by striking out "twelve" and insert "nine."

Question first recurring on the substitute, it was adopted.

Question next recurring on the amendment to the amendment as substituted, it was adopted.

Question then recurring on the amendment as amended, it was adopted.

Mr. Bagby moved to reconsider the vote by which the amendment as amended was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Laney offered the following amendment to the resolution:

Amend the resolution by adding thereto the following: "Provided, however, that a majority of the committee shall constitute a quorum."

The amendment was adopted.

Question recurring on the resolution as amended, yeas and nays were demanded.

(Mr. Bryan in the chair.)

The resolution as amended was adopted by the following vote:

Yeas—86.

Bagby.	Dodd.
Baker.	Estes.
Beard of Milam.	Fisher.
Beasley.	Florer.
Bedell.	Fly.
Bertram.	Hawkins.
Blackburn.	Hill.
Blackmon.	Hudspeth.
Blalock.	Johnson.
Bland.	Jones.
Bledsoe.	Laney.
Boner.	Lange.
Bryan.	Lee.
Burton of Rusk.	Lindemann.
Butler.	McComb.
Cadenhead.	McDowra.
Canales.	McMillin.
Carlock.	Meador.
Clark.	Miller of Dallas.
Cope.	Moore.
Cox.	Morris.
Crudgington.	Murrell.
Davis	Neeley.
of Van Zandt.	Neill.

Nichols.	Terrell.
O'Banion.	Thomas.
Osborne.	Thomason
Peddy.	of El Paso.
Peyton.	Thomason
Raiden.	of Nacogdoches.
Reeves.	Thompson
Richards.	of Hunt.
Robertson.	Tillotson.
Rogers.	Tilson.
Russell.	Tinner.
Sackett.	Trayler.
Sentell.	Tschoepe.
Schlosshan.	Upchurch.
Seawright.	Veatch.
Smith of Hopkins.	Walker.
Smith of Scurry.	Willford.
Spencer of Nolan.	Wilson.
Spencer of Wise.	Woods.
Stewart.	Woodul.
Templeton.	Yantis.

Nays—41.

Beard of Harris.	Martin.
Brown.	Mendell.
Burton of Tarrant.	Metcalfe.
Davis of Grimes.	Miller of Austin.
De Bogory.	Monday.
Denton.	Nordhaus.
Dudley.	O'Brien.
Dunnam.	Parks.
Fitzpatrick.	Pillow.
Greenwood.	Pope.
Haidusek.	Roemer.
Hardey.	Schlesinger.
Harris.	Scholl.
Hartman.	Sholars.
Holland.	Smith of Bastrop.
Laas.	Spradley.
Lanier.	Swope.
Low.	Taylor.
of Washington.	Valentine.
Lowe.	White.
of McMullen.	Williams
McFarland.	of McLennan.

Absent.

Beason.	Thompson
Bryant.	of Red River.
Fairchild.	Williams
McCoy.	of Brazoria.
Page.	

Absent—Excused.

Bell.	Sallas.
Cates.	Strayhorn.
Davis of Dallas.	Wahrmund.
Lacey.	

Reasons for Votes.

I vote "yea" because I believe it is due both the Governor and the people to make the investigation since so much publicity has been given the matter and the Governor has requested it.

PEYTON.

I vote "yea" for the reason that all parties concerned express the desire to have an investigation. But, it seems to me, that something is vitally wrong with our political make-up, when this Legislature is required, at an expense of more than \$1500 per day, to pass upon the guilt or innocence of an official charged with a criminal offense—among other things the misappropriation of public funds, if, when all evidence is in, and guilt established, the greatest punishment that can be inflicted by this body is to give him his liberty. These charges appear to me to be matters for the grand juries and courts to investigate to the end that should the accused be proven guilty then the punishment meted out may be commensurate with the offense.

BEASLEY.

Mr. Cope moved to reconsider the vote by which the resolution was adopted and to table the motion to reconsider.

The motion to table prevailed.

The Speaker announced the appointment of the following committee provided for in the above resolution:

Messrs. Bledsoe, Carlock, Fly, Thomason of El Paso, Bryan, Pope, Bryant, McMillin and Miller of Dallas.

REPORT OF INVESTIGATING COMMITTEE.

The Speaker laid before the House, for consideration at this time, the following report, which was read to the House:

Committee Room,
Austin, Texas, March 15, 1917.

Hon. F. O. Fuller, Speaker of the House
of Representatives.

Sir: We, your committee appointed to investigate the charges filed in the House of Representatives on March 3, 1917, by Hon. H. P. Davis, Representative in said Legislature, against Governor James E. Ferguson, beg leave to report as follows:

The resolution as amended and adopted by the House on March 5, 1917, provides that "the committee shall at the conclusion of the taking of testimony make a report of its findings to the House, and the House shall thereupon take such action upon the same as it shall deem proper and just in the premises."

The committee will take up the charges seriatim, and here now make their findings, as follows:

First. This charge, in substance, is that James E. Ferguson, Governor of the State of Texas, during the years 1915 and 1916, misapplied and misappropriated the public funds of the State of Texas, in violation of the Constitution of said State, and in conflict with the plain decisions of the courts of this State. The committee find that the said James E. Ferguson did misapply and misappropriate public funds of the State of Texas, in violation of the Constitution of said State, during the time herein charged, in that he did use certain public funds in the purchase of groceries, butter and eggs, meats, chickens, vegetables, feed stuffs and automobile supplies. The appropriation made by the Thirty-fourth Legislature for the years ending August 31, 1916, and August 31, 1917, provided for "fuel, lights, water, ice and incidentals, \$2000 for each year." The committee make no criticism of the fuel, lights, water and ice, although many of the committee doubt the constitutionality of these items, and the evidence before the committee shows the committee beyond a question that these items have been paid for, for many years past, and no serious question has ever arisen concerning same, and the attorney for proponent raised no objection concerning same, and no court has ever passed upon these particular items in any appropriation bill. Inasmuch, however, as the district court, Court of Civil Appeals, and the Supreme Court of this State (although the latter has not yet acted upon a motion for rehearing) did in the case of Terrell vs. Middleton, reported in the 187 Southwestern, decide that groceries could not be paid for out of such appropriation, and the committee think it not debatable that groceries could not be included in the term "incidentals." Said appropriation for "fuel, lights, water, ice and incidentals" was more than consumed by Governor Ferguson, a very large portion of which was for groceries and the other items above mentioned, and in addition thereto deficiency warrants have been issued for an amount considerably in excess of the appropriation.

Second. Answering the allegations of the second charge in the resolution, the committee find that there was no misapplication or misuse of any of the appropriation made by the Thirty-fourth Legislature for the Governor's Mansion, including repairs and improvements to mansion and grounds and necessary labor and employes to care for same. Neither does the committee find that

there was any misapplication or misuse of any of said appropriation for fuel, lights, water and ice, but about this, the committee has the same doubts as to the constitutionality of the same as expressed in paragraph 1 above; but the committee does find that the expenditures made for so-called "incidentals" for the year ending August 31, 1916, including groceries, meats, vegetables, butter and eggs, chickens, feed-stuffs and automobile supplies was not warranted by law.

Third. Answering the charge contained in the fourth paragraph of the resolution, in which the charge is made that the said Governor James E. Ferguson did misapply and misuse a large part of said appropriations, and in addition thereto that he has approved for payment by State accounts for merchandise and many articles for which he owes and is personally liable, and that he has approved deficiency certificates, the committee find that the said Ferguson has not only misapplied and misused a part of said appropriations for the purchase of groceries and like supplies, but that he has in addition approved deficiency accounts in excess thereof to cover groceries and similar items which are not properly chargeable to the State, and were for his personal and private use.

Fourth. Answering the fourth charge in said resolution, wherein it is charged in substance that Governor James E. Ferguson did, in violation of the Constitution and laws of this State, misapply and misuse a large part of an appropriation made by the Thirty-fourth Legislature, and reading as follows: "Payment of rewards and other expenses necessary for the enforcement of the laws, lithographing, telegraphing and for other purposes, \$7500," the committee find that the said Ferguson did not, with any fraudulent intent or bad faith, misapply or misuse any part of this appropriation. The evidence shows that the only items expended out of said appropriation about which any issue was made before the committee was an expenditure of \$251 to pay the traveling expenses of C. C. McDonald to Washington, in an effort to enforce the quarantine laws, as well as to reduce a claim that the national government had against the State of Texas for military supplies which had been stolen from the Texas National Guard, and which claim was properly chargeable against this State. The committee find that this was a legitimate expenditure. The committee also find that the traveling

expenses of Governor Ferguson to Washington and New York, amounting to about \$260, and charged to his "traveling expense account," for which an appropriation had been made, was also entirely proper. The only other item paid out of this appropriation was for the services of Mr. W. E. Craddock, who for several months represented the Governor in visiting State institutions and ascertaining the financial needs thereof, as well as attending sessions of the appropriation committee to assist in determining the needs of the various institutions. As it turned out this proved to be a beneficial expenditure of public money, but the committee is of the opinion that while the employment was in the utmost good faith, and valuable service was rendered, yet, that this was a dangerous precedent, and that the Constitution and laws, as well as the intent of the Legislature, was not to use money appropriated for the "enforcement of the law" for such purposes.

Fifth. Answering the fifth charge of said resolution, the committee refers to its answers to the first, second and third paragraphs above, and does find that said James E. Ferguson did, in violation of the Constitution and laws of this State, approve accounts for articles purchased for his personal use and for the use of his family and household, such as groceries, vegetables, butter and eggs, meats, chickens, feed-stuffs and automobile supplies; and the committee further find that such articles have been made the basis for deficiency warrants issued by the Comptroller of this State.

Sixth. Answering the sixth charge set out in the resolution, relative to the said Ferguson having violated the banking laws of this State, the committee find that the said Ferguson has since his tenure of office, knowingly, become indebted to the Temple State Bank in a sum in excess of the amount allowed by statutes. The committee find that the said James E. Ferguson, since his inauguration as Governor in January, 1915, has been neither an officer nor a director of said bank. The committee does, however, find that as Governor of this State he is under oath to see to it that the laws are faithfully executed, and that he did, knowingly, permit and encourage the officers of said bank to violate the statutes of this State which provide in substance that no person shall be permitted to

borrow more than thirty per cent of the capital stock of any bank, the capital stock of said Temple State Bank being at that time \$125,000 and the surplus about \$35,000, and his personal loans aggregating about \$80,000.

Answering further the sixth charge of said resolution, the committee make no finding as to whether his indebtedness was unknown to the people of this State when they elected him, and that they were misled and deceived by him in that regard, because no evidence was introduced upon this question.

Seventh. Answering the seventh charge of said resolution, the committee find that the said Ferguson is not now and never has been personally indebted to the Temple State Bank in the sum of \$170,000. It does find that up until about a month ago he was for his personal account and for the Bell-Bosque Stock Farm, of which he and his wife were the principal owners, and for certain accommodation paper for which he was personally liable, and which he owed said bank, approximately \$170,000; that said indebtedness had all accumulated since he became Governor and since he ceased to be an officer or director of said bank except about \$12,000, which he personally owed said bank at the time he became Governor; and \$30,000 which the Bell-Bosque ranch owed; that said indebtedness has accumulated since that time, and while the committee find that it may have not been secured by any liens of record, yet, it does find that the assets of said Ferguson were more than amply sufficient to fully protect said indebtedness. The committee does further find that beginning with last April the officers and directors of said bank did, by correspondence as well as resolutions (entered upon the minutes of said bank), endeavor to reduce the indebtedness of said Ferguson. The committee further find that one Hughes, mentioned in the resolution, did not loan the said Ferguson, about December 5, 1916, an additional sum of between \$30,000 and \$50,000, nor did the said Ferguson and the said Hughes enter into any conspiracy, as charged, to violate the banking laws of this State, and neither was guilty of a wilful or felonious misapplication of the funds of said bank, in connection with any notes taken at that time, the findings of the committee being that the said Ferguson was asked by the said Hughes, in writing,

to execute two notes aggregating the sum of \$50,000 with which to take up the overdraft of said Ferguson in the bank at that time. The committee further find in connection with this transaction that the said Ferguson did not procure any loan or any sum of money whatever at that time, but only executed notes for his overdrafts. The committee does find that all of the loans made by said bank to Governor Ferguson in excess of thirty per cent of the capital and surplus of said bank were made in violation of the letter of the banking laws of this State, and as Governor of this State, charged with the enforcement of all laws, he did violate the letter of the law and acquiesced in and encouraged its violation by the officers of said bank. In this connection, however, the committee say that it does not believe there was any wilful or criminal intent upon the part of said James E. Ferguson to defraud said bank or its depositors or to cause them any loss, and further find it to be a fact that all of the personal indebtedness of said Ferguson due said bank has since been paid, and that he is no longer responsible to said bank for any indebtedness except one note of \$37,500 owing by the Bell-Bosque Stock Farm, and which said loan is not in excess of the amount permitted by law and is amply secured.

Answering further and undertaking to answer all the allegations in this paragraph of the resolution, as well as all others, the committee make no finding as to whether these facts were unknown or concealed from the public at the time James E. Ferguson was elected Governor in 1914 and 1916, because no evidence was introduced upon that question.

Eighth. Answering the eighth charge in said resolution, the committee find that the said James E. Ferguson did execute certain mortgages to the Temple State Bank to secure a part of his indebtedness thereto, and the committee further find that said Ferguson did not request the officers of said bank to withhold same from record in order that he might be relieved from criticism of his political opponents. The committee find that the said Ferguson subsequently executed another mortgage to the American National Bank of Austin, and nothing was said or asked about any existing mortgages. The committee find that the Temple State Bank began to complain of his indebtedness long before

the execution of other mortgages to other parties, and said Temple State Bank had ample time and opportunity to have recorded its mortgage, if it had so desired. The committee further find that said last named mortgages were on additional property amounting to more than 900 acres of valuable land not included in the mortgage to said Temple State Bank. In this connection, the committee repeats what it has heretofore said, that all of the personal indebtedness due said Temple State Bank by the said James E. Ferguson has been fully paid.

Ninth. Answering the ninth charge contained in said resolution, relative to the Temple State Bank undertaking to change from the bonding plan to secure its depositors to the bank guaranty fund plan, the committee find that said bank during last year was operating under the bonding plan, and furthermore that it has for this year executed a new bond under the same plan. There was hearsay testimony that such a plan for change was once contemplated, but there was no evidence as to whether the idea has been abandoned or not, and no further evidence was introduced before the committee concerning the matter.

Tenth. Answering the tenth charge contained in said resolution, relative to the Commissioner of Insurance and Banking, Hon. Charles O. Austin, being cognizant of the violation of the banking laws by the Temple State Bank in extending an excessive line of credit to Governor James E. Ferguson, the committee find that beginning with April of 1916 the examiners of said department, in the most commendable performance of their duty, furnished said department official reports of the violation of the banking laws of this State by said bank in extending an over-line of credit to said Ferguson; that other reports subsequent to that time and similar in nature were also filed with said department; that the Commissioner of said department up until about September 1, 1916, is dead, and that about September 1, 1916, the Hon. C. O. Austin was appointed to said office, and the committee find that he did not actually know the condition of said loans by said bank until about January 4, 1917, but we believe in the exercise of reasonable diligence he should have ascertained said facts prior to said time.

The committee further find, as heretofore stated, that said excessive loans

were in violation of the laws of this State, but the committee further find that there was no collusion or conspiracy between the said Austin and the said Ferguson to violate the banking laws, and that, in fact, said Ferguson did not up until about January 1, 1917, have any conference with said Commissioner concerning his said loans, and then only in an effort to readjust and secure the same.

In conclusion, the committee begs leave to report to the House that the most serious charges contained in the resolution are those concerning the purchase of groceries and like articles, and bank transactions. We think the purchase of groceries for the Governor and his family is subject to just criticism because in contravention of the Constitution and in violation of the decisions of the courts, but it is only fair to state in this connection that past Legislatures, including the Thirty-fourth, have been making gradual encroachments upon the Constitution in an effort to do indirectly what it could not do directly, and supplement the meager salary now paid the Governor by furnishing such things at the Mansion as fuel, lights, water and ice. We think these facts, together with his sworn statement that he will promptly repay to the State any amount which the Supreme Court shall finally decide is not properly chargeable to the State, should be considered in connection with the good faith of the Governor, and we are, therefore, of the opinion that said transactions are not sufficient to justify the filing of impeachment proceedings.

Relative to the transactions between the Governor and the Temple State Bank, we beg to say that in our judgment they are deserving of the severest criticism and condemnation. As Governor of the State he was and is charged with the enforcement of all laws. The large sum of money borrowed by him from said bank, and far in excess of its capital and surplus, was a plain violation at least of the letter of the law. All laws, regardless of what any man may think about them, should be fairly and impartially enforced. He, knowingly, encouraged the officers of the bank to violate the banking law, and we neither excuse nor condone the same. In view, however, of his previous connection with said bank, and of the history of the transactions involved, the payment of his entire personal indebtedness, and after undertaking to pass impartially

upon all facts and circumstances before us, our conclusion is that said conduct was unjustified and wholly unwarranted, but does not merit the severe pains and penalties of impeachment.

In connection herewith we submit a stenographic report of the evidence taken in accordance with the terms of the resolution under which the investigation was held. A full statement of all expenses incurred are on file with the Committee on Contingent Expenses.

Respectfully submitted,

BRYAN,
CARLOCK,
FLY,
BRYANT,
BLEDSOE,
MILLER of Dallas,
THOMASON of El Paso,
POPE,
McMILLIN.

Question recurring on the report, it was adopted.